



# Conflict of Interest Review

Appleton City Council

## Conflict of Interest Laws Apply to Statutory Cities and their Governing Bodies [Minn. Const. art. XII, § 3](#) & [Minn. Stat. § 10A.01, subd. 22.](#)

### **Conflict of Interest Laws exist to:**

- Ensure integrity in government.
- Protect the city's and/or the city residents' interests.
- Limit the opportunity for officials to benefit (personally or financially) from public office.

### **Conflict of Interests are identified and codified into many statutes of Law and limit an official's ability to act independently in a variety of ways:**

- Provide the public access to the decision-making process.
- Prohibit public officials from accepting gifts.
- Prohibit conflicts of interest.
- Prohibit officials from holding incompatible offices.
- Require public officials to disclose conflicts or economic interests when they do arise.



City Council's Conduct City Business Across a Broad Scope of Municipal Functions (Minn. Stat. § 412.191 - Minn. Stat. § 412.221) All of Which is subject to Conflict of Interest Laws and Open Meeting Laws

## What's So Bad About Gifts?

**General prohibition** ([Minn. Stat. § 471.895 subd 2](#))

Elected and appointed “local officials” generally may not receive a gift from any “interested persons.”

**Local officials** ([Minn. Stat. § 471.895, subd. 1 d](#))

A “local official” represents any elected or appointed official of a city, or of an agency, authority, or instrumentality of a city. The gift prohibition clearly applies to the members of the city council.

However, the law does not further define the term “local official”, making it unclear if the law intends to cover all city employees, or just certain high-level employees (such as city managers or administrators) and other appointed officials.

Since so many individuals can get involved in the decision-making process, trying to distinguish between city “employees” and “officials” becomes quite difficult. As a result, the safest course of action is to assume the law applies to all employees, regardless of their title or job responsibilities.

# Interested Person(s) Do Not Gift!

**Interested persons** ([Minn. Stat. § 471.895, subd. 1 c](#))

State law defines an “interested person” as a person or representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.

An interested person likely includes anyone who may provide goods or services to a city such as engineers, attorneys, financial advisers, contractors, and salespersons. However, virtually every resident or person doing business in the city could have a direct financial interest in a decision that an official is authorized to make. These may include:

- Special assessments
- Property tax levies.
- Licenses and permits.
- Land use decisions.

If an individual could benefit financially from a decision or recommendation that a city official would be authorized to make, he or she might qualify as an interested person for purposes of the gift law.

## Some Gifts are allowable [Minn. Stat. § 10A.071, subd. 3](#)

### Exceptions

The law allows the following types of gifts under specific exceptions to the general ban:

#### Official Conflict of Interest

- Contributions to a political committee, political fund, principal campaign committee, or party unit.
- Services to assist an official in the performance of official duties. Such services can include advice, consultation, information, and communication in connection with legislation and services to constituents.
- Services of insignificant monetary value.
- A plaque with a resale value of \$5 or less.
- A trinket or memento costing \$5 or less.
- Informational material with a resale value of \$5 or less.
- Food or beverage given at a reception, meal or meeting. This exception applies if the recipient is making a speech or answering questions as part of a program that is located away from the recipient's place of work. This exception also applies if the recipient is a member or employee of the legislature and an invitation to attend was given to all members of the legislature at least five days before the date of the event.
- Gifts received because of membership in a group. This exception does not apply if the majority of group members are officials. In addition, an equivalent gift must also be offered to the other members of the group.
- Gifts between family members. However, the gift may not be given on behalf of someone who is not a member of the family.

# Conflicts of Interest - Minn. Stat. § 10A.07, Minn. Stat. § 10A.01, subd. 22, Minn. R. ch. 4515.

Local officials (including city employees with authority to make, recommend, or vote on major decisions regarding the expenditure or investment of public funds) must disclose certain information if they will be involved in decisions or take actions that substantially affect their financial interests or those of a business with which they are associated. However, disclosure is not required if the effect on the official is no greater than on others in that business classification, profession, or occupation more generally.

## **When conflicts arise, the interested official or employee must:**

MN Campaign Finance and Public Disclosure Board: Potential Conflict of Interest Notice.

- Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest.
- Deliver a copy of the notice to his or her superiors.
- If the official is an employee, notice should be provided to his or her immediate supervisor.
- If the official reports directly to the city council, notice should be given to the council.
- If the official is appointed, notice should go to the chair of that board, commission, or committee. If the chair has the conflict, notice should go to the appointing authority—the city council.
- If the official is elected, the written statement should go to the presiding officer (typically the mayor).
- If the potential conflict involves the mayor, notice should be provided to the acting presiding officer.

# Bias

Continental Prop. Grp., Inc. v. City of Minneapolis, No. A10-1072 (Minn. Ct. App. May 3, 2011) (unpublished opinion).

Personal bias can also create concern. In one case, a biased councilmember voting on a land use matter made the council's decision arbitrary.

As a result, the court found the city violated the property buyer's due process rights and returned the matter for a new hearing—one where the biased councilmember would not participate.